

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL PETITION No.2109 OF 2017

ORDER:

The present petition is filed requesting to quash the proceedings in P.R.C. No.121 of 2016 on the file of Judicial Magistrate of First Class, Kurnool, by exercising inherent powers under Section 482 of the Criminal Procedure Code, 1973 (for short, 'the Code').

2. The petitioner in the aforesaid case is arraigned as accused No.4. The petitioner along with accused Nos.1 to 3 alleged to have committed the offences punishable under Sections 498-A & 307 of IPC and Section 4 of Dowry Prohibition Act.

3. Heard Sri J.U.M.V. Prasad, the learned counsel for the petitioner, and the learned Assistant Public Prosecutor for the State of Andhra Pradesh.

4. The submission of the learned Counsel for the petitioner is that there are no allegations making out a *prima facie* case against the petitioner for the commission of the offences alleged against him. It is his submission that the allegations are directed against accused Nos. 1 to 3 and the 2nd respondent/*de facto* complainant deliberately implicated the present petitioner to pressurize the accused Nos.1 to 3, who are no other than the brother and parents of the petitioner herein. The learned counsel would submit that the statements of witnesses

recorded under Section 161 (3) of Cr.P.C. are self-styled, and, therefore, sought to quash the proceedings against the petitioner.

5. The learned Assistant Public Prosecutor for the State of Andhra Pradesh would resist the request contending that there have been allegations in the statements, *prima facie* making out a case against the petitioner so far as the offences levelled against the petitioner.

6. The case is at P.R.C. stage before the learned Magistrate. It is no doubt true that the petitioner herein is the sister of 1st accused, who is the husband of the *de facto* complainant and accused Nos.2 & 3 are the parents of the 1st accused, but not only the complaint but also the statement made by the 2nd respondent herein would make out a *prima facie* case as to the acts constituting harassment. An instance is sufficient to view that there are *prima facie* allegations, that being in her statement, the complainant states that besides insisting payment of additional dowry of Rs.2.00 lakhs, even after mediations were held by the elders and after the FCOP No.110 of 2012 was dismissed by the Family Court, as the Special Judge for Family Court found that the 1st accused has given wrong address and got managed as if notice was served, the petitioner along with accused Nos.1 to 3 in the month of January, 2014 beat her severely and even tried to kill her by pulling tip of her saree and when she raised cries left her and threatened that in case she reveals the said incident, they would kill her. Certainly, it is not a fit case for viewing that the prosecution against the petitioner would amount to abuse of process of law.

7. Hence, the Criminal Petition is dismissed.

At this stage, learned counsel for the petitioner-accused No.4 submits that the petitioner is residing at Anantapuram District and the Court is at Kurnool, and, therefore, sought to exempt her appearance. There is reason to accede to such request. However, the presence of the petitioner-accused No.4 is exempted during pendency of committal proceedings, but she shall appear on the date of committal of the case by the learned Magistrate. Thus, the present request is confined only to the extent of committal proceedings.

As a sequel thereto, miscellaneous petitions if any pending in the Criminal Petition shall stand closed.

Dt.25.04.2017
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A.SHANKAR NARAYANA

